IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

TAMMIE HILL and DANIEL HILL,	)	
	)	
Plaintiffs	)	
	)	
v.	)	**CIVIL ACTION NO.**
	)	**3:17-CV-00678**
	)	
WINNEBAGO INDUSTRIES, INC.,	)	**JURY TRIAL DEMANDED**
	)	
Defendant	)	

ANSWER

NOW COMES the Defendant, Winnebago Industries, Inc. ("Winnebago"), by and through counsel, and for its answer to the Plaintiffs' Complaint states as follows:

FIRST DEFENSE

The Plaintiffs' Complaint fails to state a claim against Winnebago upon which relief can be granted.

SECOND DEFENSE

For answer to the specifically enumerated paragraphs of the Plaintiffs' Complaint, Winnebago states as follows:

1. Winnebago denies any violation under the Tennessee Commercial Code or the Magnuson Moss Warranty Act.

2. Winnebago is without information or knowledge sufficient to form a belief as to the truth of these allegations and can neither admit nor deny them although Winnebago denies any violations of 15 U.S.C. §2301, *et seq.*

3. Winnebago does not dispute venue.

4. Winnebago is without information or knowledge sufficient to form a belief as to the truth of these allegations and can neither admit nor deny them but demands strict proof thereof.

5. Winnebago admits that it is a corporation doing business in Tennessee and elsewhere. Winnebago further admits that it provided a limited warranty on the vehicle at issue in this case.

6. Winnebago admits that it manufactured the 2016 Winnebago Sunstar LX 30T vehicle at issue in this case and provided a limited warranty on the vehicle. The remaining allegations of paragraph 6 of the Complaint are denied.

7. The responses to all paragraphs and claims identified and any and all affirmative defenses made by the Defendant are incorporated as if fully rewritten herein.

8. Winnebago denies that it breached any express and/or implied warranties and/or contracts and further denies that it violated the Magnuson Moss Warranty Act 15 U.S.C. §2301, *et seq.*

9. These allegations are denied.

10. Winnebago is without information or knowledge sufficient to form a belief as to the truth of these allegations and can neither admit nor deny them but demands strict proof thereof.

11. Winnebago is without information or knowledge sufficient to form a belief as to the truth of these allegations and can neither admit nor deny them but demands strict proof thereof.

12. Winnebago admits that the Plaintiffs purchased a 2016 Winnebago Sunstar LX 30T recreational vehicle from Camping World RV Sales on or around February 5, 2016 and that Winnebago provided a limited warranty on the subject recreational vehicle. Winnebago is without information or knowledge sufficient to form a belief as to the truth of the remaining allegations of paragraph 12 and can neither admit nor deny them but demands strict proof thereof.

13. Winnebago is without information or knowledge sufficient to form a belief as to the truth of these allegations and can neither admit nor deny them but demands strict proof thereof.

14. These allegations are denied.

15. Winnebago is without information or knowledge sufficient to form a belief as to the truth of these allegations and can neither admit nor deny them but demands strict proof thereof.

16. Winnebago admits that the Plaintiffs notified it of alleged problems and that the Plaintiffs delivered the subject recreational vehicle to one of Winnebago's authorized Dealers. The remaining allegations of paragraph 16 are denied.

17. Winnebago is without information or knowledge sufficient to form a belief as to the truth of these allegations and can neither admit nor deny them but demands strict proof thereof.

18. Winnebago is without information or knowledge sufficient to form a belief as to the truth of these allegations and can neither admit nor deny them but demands strict proof thereof.

19. Winnebago is without information or knowledge sufficient to form a belief as to the truth of these allegations and can neither admit nor deny them but demands strict proof thereof.

20. Winnebago is without information or knowledge sufficient to form a belief as to the truth of these allegations and can neither admit nor deny them but demands strict proof thereof.

21. Winnebago is without information or knowledge sufficient to form a belief as to the truth of these allegations and can neither admit nor deny them but demands strict proof thereof.

22. These allegations are denied.

23. These allegations are denied.

24. These allegations are denied.

25. These allegations are denied.

26. Winnebago is without information or knowledge sufficient to form a belief as to the truth of these allegations and can neither admit nor deny them but demands strict proof thereof.

27. Winnebago is without information or knowledge sufficient to form a belief as to the truth of these allegations and can neither admit nor deny them but demands strict proof thereof. Winnebago denies, however, any allegations that the recreational vehicle

at issue in this case was not of merchantable quality. Winnebago further denies any unfair or deceptive acts as alleged.

28. These allegations are denied.

29. Winnebago is without information or knowledge sufficient to form a belief as to the truth of these allegations and can neither admit nor deny them but demands strict proof thereof. Winnebago denies, however, that it failed to timely fix the subject recreational vehicle as alleged.

30. These allegations are denied.

31. Winnebago denies that the subject recreational vehicle was defective or malfunctioned. Winnebago admits, however, that one or more items submitted for repair were covered under the terms of Winnebago's limited warranty. The remaining allegations of paragraph 31 are denied.

32. These allegations are denied.

34. These allegations are denied.

35. These allegations are denied.

36. These allegations are denied.

37. The Defendant does not dispute the Plaintiffs' entitlement to and demand for a jury.

THIRD DEFENSE

Winnebago asserts that the recreational vehicle at issue in this lawsuit, the Plaintiffs' 2016 Winnebago Sunstar LX 30T, was designed, manufactured and assembled in accordance with all applicable State and Federal governmental regulations and standards.

FOURTH DEFENSE

The Plaintiffs' claims based upon theories of Breach of Contract are barred because Winnebago is not a party to the Plaintiff's Purchase Agreement.

FIFTH DEFENSE

The Plaintiffs' claims, including but not limited to those for breach of Implied Warranties, are not available against Winnebago because Winnebago lacks privity of contract to the Plaintiffs' Purchase Agreement.

SIXTH DEFENSE

Winnebago relies upon any and all limitations and exclusions under the New Vehicle Limited Warranty to limit or preclude any recovery by the Plaintiffs against Winnebago.

SEVENTH DEFENSE

The Plaintiffs cannot recover from Winnebago for any claims of alleged defects based upon parts or components which are excluded from the New Vehicle Limited Warranty.

EIGHTH DEFENSE

Winnebago relies on the defenses of misuse, alteration, change, improper maintenance, abnormal use and/or failure to follow proper instructions and warnings if proven applicable by investigation and discovery.

NINTH DEFENSE

The Plaintiffs cannot recover from Winnebago for any and all claims for alleged defects which were successfully repaired and accepted by the Plaintiffs.

TENTH DEFENSE

Winnebago relies upon all warranties, including limitations and disclaimers contained therein, provided to the Plaintiffs and to which the recreational vehicle at issue in this case is subject.

ELEVENTH DEFENSE

Winnebago relies upon the defenses of independent, intervening or superseding cause as they may still exist in Tennessee, and under the laws of any jurisdiction applicable in the premises.

TWELFTH DEFENSE

Winnebago relies upon any and all defenses in the Tennessee Commercial Code with regard to breach of contract and breach of warranty claims, both express and implied, including privity and notice requirements. Winnebago further relies upon any defenses in any other part of the Tennessee Commercial Code under which the Plaintiffs may assert a claim for recovery.

THIRTEENTH DEFENSE

Winnebago denies that the recreational vehicle at issue in this case, as designed, manufactured and delivered, was defective.

FOURTEENTH DEFENSE

For purposes of joining issue, Winnebago alleges that the Plaintiffs failed to give timely notice of alleged defects in the product as required under the terms of the New Vehicle Limited Warranty and/or the Tennessee Commercial Code.

FIFTEENTH DEFENSE

The Doctrines of Payment, Release and Accord and Satisfaction, where applicable, bar the recovery sought by the Plaintiffs against Winnebago.

SIXTEENTH DEFENSE

Winnebago asserts that the Plaintiffs failed to reasonably mitigate their alleged damages.

SEVENTEENTH DEFENSE

Pleading in the alternative, the Plaintiffs' recovery, if any, is limited to the sole and exclusive remedy/damages exclusion of the New Vehicle Limited Warranty provided by Winnebago.

EIGHTEENTH DEFENSE

Responding to the Plaintiffs' Prayer for Relief, Winnebago denies that the Plaintiffs are entitled to any claim for recovery from Winnebago.

NINETEENTH DEFENSE

All allegations in the Complaint which have not heretofore expressly been admitted, explained or denied are here and now denied as fully as though they were specifically and separately denied.

TWENTIETH DEFENSE

Winnebago reserves the right to amend its Answer to include such other and further defenses as may become apparent through investigation and discovery.

WHEREFORE, having fully answered the Plaintiffs' Complaint, Winnebago denies that it is liable to the Plaintiffs in the sums sued for or in any amount whatsoever and respectfully requests that this action be dismissed with prejudice. Absent dismissal, Winnebago demands a jury to determine any issues remaining and appropriate at the time of trial.

Respectfully submitted,

LEITNER, WILLIAMS, DOOLEY & NAPOLITAN, PLLC

BY: *s/ Charles W. Poss*
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CERTIFICATE OF SERVICE

I hereby certify that on 28th day of April, 2017, a copy of the foregoing document was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

BY: *s/ Charles W. Poss*
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